

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TIM C PATTERSON
Claimant

WRH INC
Employer

APPEAL NO. 20A-UI-01930-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/02/20
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 21, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 19, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on January 14, 2020. Employer discharged claimant on January 14, 2020 because claimant walked off the job site on January 14, 2020 after he felt insulted by the job foreman.

Claimant worked as a carpenter and form builder for employer. Claimant was also responsible for organizing tools. On January 14, 2020 claimant was trying to put together pieces to create or fix a torch for a cut off that needed to be done. The site foreman commented to claimant that there would be nothing wrong with the torch if claimant hadn't been messing with it.

Claimant took this as an insult and stated that he hadn't been messing with it. Claimant stated he stewed on the foreman's remarks and got more upset. Claimant then chose to walk off the site to cool down. He got into his truck and went off to have a coffee to help him back off from his frustrations. Claimant did not have approval from any party to leave the job site.

Claimant was gone for approximately an hour when he received a call from an unknown company representative telling him that he would no longer be employed as he'd abandoned his job.

Claimant stated that other people at various times had left the job site with the approval of the foreman. He stated that he didn't believe that they'd left in an upset mood without approval. Claimant stated that he knew his actions were wrong.

Claimant received no warnings about leaving the job site in the middle of the workday prior to his dismissal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand, mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

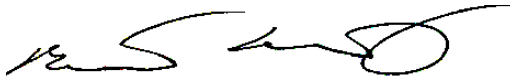
This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct. In this matter, the evidence established that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning job abandonment. The last incident, which brought about the discharge, constitutes misconduct because claimant knew he was not to walk off in the middle of his shift, yet chose to do so without the permission of the foreman as he was upset about an off-the-cuff comment that claimant did not like. By walking off the job, claimant put his interests ahead of employer's interests. At the time of job termination, employer had no idea when, or if, claimant was going

to return to work. The administrative law judge holds that claimant was discharged for an act of misconduct and, as such, is disqualified for the receipt of unemployment insurance benefits.

DECISION:

The decision of the representative dated February 21, 2020, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

March 31, 2020
Decision Dated and Mailed

bab/scn